

Senate Study Bill 1314

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/SAVINGS AND LOAN
DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of savings and loan
2 associations by the division of banking of the department of
3 commerce.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1300DP 82
6 rn/es/88

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1 1 Section 1. Section 20.4, subsection 12, Code 2007, is
1 2 amended by striking the subsection.
1 3 Sec. 2. Section 524.103, Code 2007, is amended by adding
1 4 the following new subsection:
1 5 NEW SUBSECTION. 37A. "State association" or "state
1 6 savings and loan association" means a corporation holding a
1 7 certificate of authority to operate under chapter 534 as
1 8 either a mutual association or a stock association, as those
1 9 terms are defined in chapter 534.
1 10 Sec. 3. Section 524.211, subsection 1, Code 2007, is
1 11 amended to read as follows:
1 12 1. The superintendent, general counsel, examiners, and
1 13 other employees assigned to the bank bureau of the banking
1 14 division are prohibited from obtaining a loan of money or
1 15 property from a state-chartered bank, a state savings and loan
1 16 association, or any person or entity affiliated with a
1 17 state-chartered bank or a state savings and loan association.
1 18 Sec. 4. Section 524.214, subsection 1, Code 2007, is
1 19 amended to read as follows:
1 20 1. The superintendent and, upon the approval of the
1 21 superintendent, any examiner or other employees of the banking
1 22 division shall have the power to subpoena witnesses, to compel
1 23 their attendance, to administer an oath, to examine any person
1 24 under oath and to require the production of any relevant books
1 25 or papers. Such examination may be conducted on any subject
1 26 relating to the duties imposed upon, or powers vested in, the
1 27 superintendent under the provisions of this chapter or any
1 28 other chapter administered by the superintendent.
1 29 Sec. 5. Section 524.215, subsection 4, Code 2007, is
1 30 amended to read as follows:
1 31 4. In any action brought as a shareholders derivative suit
1 32 against a state bank or other entity regulated by the
1 33 superintendent.
1 34 Sec. 6. Section 524.215, Code 2007, is amended by adding
1 35 the following new subsection:
2 1 NEW SUBSECTION. 6. In an action brought to recover moneys
2 2 for a loss in connection with an indemnity bond which was a
2 3 result of embezzlement, misappropriation, or misuse of funds,
2 4 belonging to an entity regulated by the superintendent, by a
2 5 director, officer, or employee of the entity.
2 6 Sec. 7. Section 524.216, subsection 2, Code 2007, is
2 7 amended to read as follows:
2 8 2. A summary of the assets, liabilities, and capital
2 9 structure of all state banks and state savings and loan
2 10 associations as of June 30 of the year for which the report is
2 11 made.
2 12 Sec. 8. Section 524.1409, Code 2007, is amended to read as
2 13 follows:
2 14 524.1409 CONVERSION OF NATIONAL BANK OR FEDERAL SAVINGS
2 15 ASSOCIATION OR STATE SAVINGS AND LOAN ASSOCIATION INTO STATE
2 16 BANK.
2 17 A national bank, or federal savings association, or state

2 18 savings and loan association, subject to the provisions of
2 19 this chapter, may convert into a state bank upon authorization
2 20 by and compliance with the laws of the United States, adoption
2 21 of a plan of conversion by the affirmative vote of at least a
2 22 majority of its directors and the holders of two-thirds of
2 23 each class of its shares at a meeting held upon not less than
2 24 ten days' notice to all shareholders, and upon approval of the
2 25 superintendent.

2 26 Sec. 9. Section 524.1410, unnumbered paragraph 1, Code
2 27 2007, is amended to read as follows:

2 28 A national bank, ~~or~~ federal savings association, or state
2 29 savings and loan association shall make an application to the
2 30 superintendent for approval of the conversion in a manner
2 31 prescribed by the superintendent and shall deliver to the
2 32 superintendent, when available:

2 33 Sec. 10. Section 524.1411, Code 2007, is amended to read
2 34 as follows:

2 35 524.1411 ARTICLES OF CONVERSION.

3 1 The articles of conversion shall be signed by two duly
3 2 authorized officers of the national bank, ~~or~~ federal savings
3 3 association, or state savings and loan association and shall
3 4 contain all of the following:

3 5 1. The name of the national bank, ~~or~~ federal savings
3 6 association, or state savings and loan association and the
3 7 name of the resulting state bank.

3 8 2. The location and post office address of its principal
3 9 place of business and of each additional office, and the
3 10 location and post office address of the principal place of
3 11 business of the resulting state bank and of each additional
3 12 office to be maintained by the resulting state bank.

3 13 3. The votes by which the plan of conversion was adopted
3 14 and the date and place of each meeting in connection with the
3 15 adoption.

3 16 4. The number of directors constituting the board of
3 17 directors, and the names and addresses of the persons who are
3 18 to serve as directors until the next annual meeting of
3 19 shareholders or until successors be elected and qualify.

3 20 5. The provisions required in the articles of
3 21 incorporation by section 524.302, subsection 1, paragraphs "c"
3 22 and "d", and subsection 2, paragraph "b".

3 23 Sec. 11. Section 524.1412, Code 2007, is amended to read
3 24 as follows:

3 25 524.1412 PUBLICATION OF NOTICE.

3 26 Within thirty days after the application for conversion has
3 27 been accepted for processing, the national bank, ~~or~~ federal
3 28 savings association, or state savings and loan association
3 29 shall publish a notice of the delivery of the articles of
3 30 conversion to the superintendent in a newspaper of general
3 31 circulation published in the municipal corporation or
3 32 unincorporated area in which the national bank, ~~or~~ federal
3 33 savings association, or state savings and loan association has
3 34 its principal place of business, or if there is none, a
3 35 newspaper of general circulation published in the county, or
4 1 in a county adjoining the county, in which the national bank,
4 2 ~~or~~ federal savings association, or state savings and loan
4 3 association has its principal place of business. Proof of

4 4 publication of the notice shall be delivered to the
4 5 superintendent within fourteen days. The notice shall set
4 6 forth all of the following:

4 7 1. The name of the national bank, ~~or~~ federal savings
4 8 association, or state savings and loan association and the
4 9 name of the resulting state bank.

4 10 2. The location and post office address of its principal
4 11 place of business.

4 12 3. A statement that articles of conversion have been
4 13 delivered to the superintendent.

4 14 4. The purpose or purposes of the resulting state bank.

4 15 5. The date of delivery of the articles of conversion to
4 16 the superintendent.

4 17 Sec. 12. Section 524.1413, subsection 2, Code 2007, is
4 18 amended to read as follows:

4 19 2. Within ninety days after the application has been
4 20 accepted for processing, the superintendent shall approve or
4 21 disapprove the application on the basis of the investigation.
4 22 As a condition of receiving the decision of the superintendent
4 23 with respect to the application, the national bank, ~~or~~ federal
4 24 savings association, or state savings and loan association
4 25 shall reimburse the superintendent for all expenses incurred
4 26 in connection with the application. The superintendent shall
4 27 give the national bank, ~~or~~ federal savings association, or
4 28 state saving and loan association written notice of the

4 29 decision and, in the event of disapproval, a statement of the
4 30 reasons for the decision. If the superintendent approves the
4 31 application, the superintendent shall deliver the articles of
4 32 conversion, with the superintendent's approval indicated on
4 33 the articles of conversion, to the secretary of state. The
4 34 decision of the superintendent shall be subject to judicial
4 35 review pursuant to chapter 17A. Notwithstanding the terms of
5 1 the Iowa administrative procedure Act, chapter 17A, a petition
5 2 for judicial review must be filed within thirty days after the
5 3 superintendent notifies the national bank, ~~or~~ federal savings
5 4 association, or state savings and loan association of the
5 5 superintendent's decision.

5 6 Sec. 13. Section 524.1415, Code 2007, is amended to read
5 7 as follows:

5 8 524.1415 EFFECT OF FILING OF ARTICLES OF CONVERSION WITH
5 9 SECRETARY OF STATE.

5 10 1. The conversion is effective upon the filing of the
5 11 articles of conversion with the secretary of state, or at any
5 12 later date and time as specified in the articles of
5 13 conversion. The acknowledgment of filing is conclusive
5 14 evidence of the performance of all conditions required by this
5 15 chapter for conversion of a national bank, ~~or~~ federal savings
5 16 association, or state savings and loan association into a
5 17 state bank, except as against the state.

5 18 2. When a conversion becomes effective, the existence of
5 19 the national bank, ~~or~~ federal savings association, or state
5 20 saving and loan association shall continue in the resulting
5 21 state bank which shall have all the property, rights, powers,
5 22 and duties of the national bank, ~~or~~ federal savings
5 23 association, or state saving and loan association, except that
5 24 the resulting state bank shall have only the authority to
5 25 engage in such business and exercise such powers as it would
5 26 have, and shall be subject to the same prohibitions and
5 27 limitations to which it would be subject, upon original
5 28 incorporation under this chapter. The articles of
5 29 incorporation of the resulting state bank shall be the
5 30 provisions stated in the articles of conversion.

5 31 3. ~~No~~ A liability of the national bank, ~~or~~ federal savings
5 32 association, or state saving and loan association, or of the
5 33 national bank's, ~~or~~ federal savings association's, or state
5 34 savings and loan association's shareholders, directors, or
5 35 officers, is not affected by the conversion. A lien on any
6 1 property of the national bank, ~~or~~ federal savings association,
6 2 or state savings and loan association is not impaired by the
6 3 conversion. A claim existing or action pending by or against
6 4 the national bank, ~~or~~ federal savings association, or state
6 5 savings and loan association may be prosecuted to judgment as
6 6 if the conversion had not taken place, or the resulting state
6 7 bank may be substituted in its place.

6 8 4. The title to all real estate and other property owned
6 9 by the converting national bank, ~~or~~ federal savings
6 10 association, or state savings and loan association is vested
6 11 in the resulting state bank without reversion or impairment.

6 12 Sec. 14. Section 524.1416, Code 2007, is amended to read
6 13 as follows:

6 14 524.1416 AUTHORITY FOR CONVERSION OF STATE BANK INTO
6 15 NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION OR STATE SAVINGS
6 16 AND LOAN ASSOCIATION.

6 17 1. A state bank may convert into a national bank, ~~or~~
6 18 federal savings association, or state savings and loan
6 19 association upon authorization by and compliance with the laws
6 20 of the United States, and adoption of a plan of conversion by
6 21 the affirmative vote of at least a majority of its directors
6 22 and the holders of two-thirds of each class of its shares at a
6 23 meeting held upon not less than ten days' notice to all
6 24 shareholders. The authority of a state bank to convert into a
6 25 national bank or federal savings association shall be subject
6 26 to the condition that at the time of the transaction, the laws
6 27 of the United States shall authorize a national bank or
6 28 federal savings association located in this state, without
6 29 approval by the comptroller of the currency of the United
6 30 States or director of the office of thrift supervision, as
6 31 applicable, to convert into a state bank under limitations and
6 32 conditions no more restrictive than those contained in this
6 33 section and section 524.1417 with respect to conversion of a
6 34 state bank into a national bank or federal savings
6 35 association.

7 1 2. A state bank which converts into a national bank or
7 2 federal savings association shall notify the superintendent of
7 3 the proposed conversion, provide such evidence of the adoption
7 4 of the plan as the superintendent may request, notify the

7 5 superintendent of any abandonment or disapproval of the plan,
7 6 and file with the superintendent and with the secretary of
7 7 state a certificate of the approval of the conversion by the
7 8 comptroller of the currency of the United States or director
7 9 of the office of thrift supervision, as applicable, and the
7 10 date upon which such conversion is to become effective. A
7 11 state bank that converts into a national bank or federal
7 12 savings association shall comply with the provisions of
7 13 section 524.310, subsection 1.

7 14 3. A state bank that converts into a state savings and
7 15 loan association shall file with the secretary of state a
7 16 certificate of the approval of the conversion by the
7 17 superintendent and the date upon which such conversion is to
7 18 be effective.

7 19 Sec. 15. Section 524.1417, Code 2007, is amended to read
7 20 as follows:

7 21 524.1417 APPRAISAL RIGHTS OF SHAREHOLDER OF CONVERTING
7 22 STATE OR NATIONAL BANK OR FEDERAL OR STATE SAVINGS
7 23 ASSOCIATION.

7 24 1. A shareholder of a state bank that converts into a
7 25 national bank, ~~or~~ federal savings association, or a state
7 26 savings and loan association who objects to the plan of
7 27 conversion is entitled to appraisal rights as provided in
7 28 chapter 490, division XIII.

7 29 2. If a shareholder of a national bank or federal savings
7 30 association that converts into a state bank objects to the
7 31 plan of conversion and complies with the requirements of
7 32 applicable laws of the United States, the resulting state bank
7 33 is liable for the value of the shareholder's shares as
7 34 determined in accordance with such laws of the United States.

7 35 3. If a shareholder of a state savings and loan
8 1 association that converts to a state bank objects to the plan
8 2 of conversion and complies with the requirements of applicable
8 3 laws of this state, the resulting bank is liable for the value
8 4 of the shareholder's shares as determined in accordance with
8 5 such laws of this state.

8 6 Sec. 16. Section 524.1418, Code 2007, is amended to read
8 7 as follows:

8 8 524.1418 SUCCESSION TO FIDUCIARY ACCOUNTS AND APPOINTMENTS
8 9 == APPLICATION FOR APPOINTMENT OF NEW FIDUCIARY.

8 10 The provisions of section 524.1009 apply to a resulting
8 11 state or national bank, ~~or~~ federal savings association, or
8 12 state savings and loan association after a conversion with the
8 13 same effect as though the state or national bank, ~~or~~ federal
8 14 savings association, or state savings and loan association
8 15 were a party to a plan of merger, and the conversion were a
8 16 merger, within the provisions of that section.

8 17 Sec. 17. Section 524.1805, subsection 5, Code 2007, is
8 18 amended to read as follows:

8 19 5. For purposes of subsection 1, a bank that resulted from
8 20 the conversion of a state savings and loan association or
8 21 federal savings association, as defined in 12 U.S.C. } 1813,
8 22 is deemed to have been in continuous existence and operation
8 23 as a bank for the combined periods of continuous existence and
8 24 operation of the bank and the association from which it was
8 25 converted.

8 26 Sec. 18. Section 534.102, subsection 7, Code 2007, is
8 27 amended to read as follows:

8 28 7. "Federal association" means a corporation operating
8 29 under the federal Home Owners' Loan Act, ~~of 1933~~ 12 U.S.C. }
8 30 1461 et seq., as amended, as either a mutual association or a
8 31 stock association.

8 32 Sec. 19. Section 534.102, subsection 13, Code 2007, is
8 33 amended to read as follows:

8 34 13. "Insured mortgage" is a mortgage covered in part by
8 35 insurance, ~~which insurance has been formally submitted to and~~
9 1 ~~approved by the superintendent or by the federal home loan~~
9 2 ~~bank of the area in which the association is located.~~

9 3 Sec. 20. Section 534.103, subsection 1, Code 2007, is
9 4 amended to read as follows:

9 5 1. GENERAL CORPORATE POWER. To sue and be sued, complain
9 6 and defend in any court of law or equity; to purchase,
9 7 acquire, hold, and convey real and personal estate consistent
9 8 with its objects and powers; to mortgage, pledge, or lease any
9 9 real or personal estate owned by the association and to
9 10 authorize a pledgee to repledge the property; to take property
9 11 by gift, devise, or bequest; to have a corporate seal, which
9 12 may be affixed by imprint, facsimile, or otherwise; to appoint
9 13 officers, agents, and employees as its business requires and
9 14 allow them suitable compensation; to provide for life, health,
9 15 and casualty insurance for its officers and employees and to

9 16 adopt and operate reasonable bonus plans and retirement
9 17 benefits for the officers and employees to enter into payroll
9 18 savings plans; to adopt and amend bylaws; to insure its
9 19 accounts with ~~the savings association insurance fund of the~~
9 20 federal deposit insurance corporation and qualify as a member
9 21 of a federal home loan bank; to become a member of, deal with,
9 22 or make contributions to any organization to the extent that
9 23 the organization assists in furthering or facilitating the
9 24 association's purposes or powers and to comply with conditions
9 25 of membership; to accept savings as provided in this chapter
9 26 together with other powers otherwise expressly provided for in
9 27 this chapter, together with implied powers as reasonably
9 28 necessary for the purpose of carrying out the express powers
9 29 granted in this chapter.

9 30 Sec. 21. Section 534.103, subsection 4, Code 2007, is
9 31 amended to read as follows:

9 32 4. POWER TO BORROW. Except as provided by its articles of
9 33 incorporation, an association may borrow not more than an
9 34 aggregate amount equal to its savings liability on the date of
9 35 borrowing. A subsequent reduction of savings liability shall
10 1 not affect in any way outstanding obligations for borrowed
10 2 money. All loans and advances may be secured by property of
10 3 the association. In addition to the above unsecured or
10 4 secured borrowing, an association may issue notes, bonds,
10 5 debentures and other obligations or securities approved by the
10 6 superintendent, and if authorized by the regulations of the
10 7 federal ~~home loan bank~~ office of thrift supervision. However,
10 8 the obligations and securities are subject to the priority of
10 9 the rights of the owners of the savings and deposits of the
10 10 association.

10 11 Sec. 22. Section 534.103, subsection 8, Code 2007, is
10 12 amended to read as follows:

10 13 8. LEASING OF PERSONAL PROPERTY. To acquire, upon the
10 14 specific request of and for the use of a customer, and lease,
10 15 personal property pursuant to a binding arrangement for the
10 16 leasing of the property to the customer upon terms requiring
10 17 payment to the association, during the minimum period of the
10 18 lease, of rentals which in the aggregate, when added to the
10 19 estimated tax benefits to the association resulting from the
10 20 ownership of the leased property plus the estimated residual
10 21 market value of the leased property at the expiration of the
10 22 initial term of the lease, will be at least equal to the total
10 23 expenditures by the association for, and in connection with,
10 24 the acquisition, ownership, maintenance, and protection of the
10 25 property. A lease made under authority of this section shall
10 26 ~~have the prior approval of the superintendent or~~ be made
10 27 pursuant to personal property lease guidelines approved by the
10 28 superintendent for use by the lessor association or pursuant
10 29 to a personal property lease guideline rule of general
10 30 applicability for use by all associations.

10 31 Sec. 23. Section 534.105, Code 2007, is amended to read as
10 32 follows:

10 33 534.105 DEFAMATION OF INSTITUTIONS == PENALTY.

10 34 Whoever maliciously or with intent to deceive makes,
10 35 publishes, utters, repeats, or circulates any false report
11 1 concerning any ~~building and loan or~~ savings and loan
11 2 association which imputes or tends to impute, insolvency or
11 3 unsound financial condition or financial embarrassment, or
11 4 which may tend to cause or provoke or aid in causing or
11 5 provoking a general withdrawal of funds from such association,
11 6 or which may otherwise injure or tend to injure the business
11 7 or goodwill of such ~~building and loan or~~ savings and loan
11 8 association, shall be guilty of a serious misdemeanor.

11 9 Sec. 24. Section 534.108, Code 2007, is amended to read as
11 10 follows:

11 11 534.108 FINANCIAL STATEMENT == REPORTS.

~~11 12 Every association shall prepare and publish annually in the
11 13 month of January in a newspaper of general circulation in the
11 14 county in which the home office of such association is
11 15 located, and shall deliver to each member upon application
11 16 therefor, a statement of its financial condition in the form
11 17 prescribed or approved by the superintendent.~~

11 18 Every association shall file with the superintendent all
11 19 monthly, quarterly, and annual reports required by and filed
11 20 with the ~~its federal home loan bank board~~ regulator.

11 21 Sec. 25. Section 534.111, Code 2007, is amended to read as
11 22 follows:

11 23 534.111 RIGHTS OF FEDERAL ASSOCIATIONS == RECIPROCITY.

11 24 Every federal savings and loan association incorporated
11 25 under the Home Owners' Loan Act ~~of 1933~~, 12 U.S.C. }

11 26 ~~1461--1468~~ 1461 et seq., as amended, and the holders of share

11 27 accounts issued by any such association have all the rights,
11 28 powers, and privileges and are entitled to the same exemptions
11 29 and immunities, as savings and loan associations organized
11 30 under the laws of this state and members thereof are entitled.

11 31 Every association organized under this chapter has all the
11 32 rights, powers, and privileges not in conflict with the laws
11 33 of this state, which are conferred upon federal savings and
11 34 loan associations by the Home Owners' Loan Act of 1933, 12
~~11 35 U.S.C. } 1464~~, and conferred by regulations adopted by the
12 1 federal ~~home loan bank~~ housing finance board and the federal
12 2 office of thrift supervision.

12 3 Sec. 26. Section 534.205, subsection 6, Code 2007, is
12 4 amended to read as follows:

12 5 6. BALLOON PAYMENTS. An association shall mail to the
12 6 borrower an offer to refinance a balloon payment under a loan
12 7 at least twenty days before the balloon payment date if at
12 8 that time no payments under the loan are delinquent. The
12 9 offer shall be at an interest rate no greater than one percent
12 10 per annum above the index rate and with monthly payments no
12 11 greater than those necessary to fully amortize the amount of
12 12 the balloon payment plus interest over a term which, when
12 13 added together with the term representing the number of
12 14 monthly payments made before the most recent notice to
12 15 refinance, is not less than the original loan term. The
12 16 association must offer to the borrower a term of at least one
12 17 year before the next balloon payment. If the balloon payment
12 18 is due one month after the preceding monthly payment date, the
12 19 association may require the borrower to make a payment equal
12 20 to the preceding monthly payment on the balloon payment date
12 21 if the first payment under the note to refinance the balloon
12 22 note is one month after the balloon payment date. The
12 23 association may offer repayment plans to refinance a balloon
12 24 payment in addition to the plan required by this subsection.
12 25 For purposes of this subsection, "loan" means the same as
12 26 defined in section 535.8, subsection 1; "balloon payment"
12 27 means a payment which is more than three times as big as the
12 28 mean average of the payments which precede it; and "index
12 29 rate" means the national average mortgage contract rate for
12 30 major lenders on the purchase of previously occupied homes
12 31 which is most recently published in final form by the federal
12 32 ~~home loan bank~~ housing finance board not more than four months
12 33 before the date on which the balloon payment is due, or,
12 34 alternatively, a rate based upon any other independently
12 35 verifiable index approved by the superintendent.

13 1 Sec. 27. Section 534.213, subsection 1, paragraph m, Code
13 2 2007, is amended to read as follows:

13 3 m. In addition to other investments authorized in this
13 4 section, an association may invest and may continue previous
13 5 investments in capital stock, obligations, or other securities
13 6 of finance subsidiaries and may exercise powers with respect
13 7 to finance subsidiaries to the same extent as a federal
13 8 association is permitted under the Home Owners' Loan Act of
~~13 9 1933, 12 U.S.C. } 1464 1461 et seq., as amended~~, and
13 10 regulations adopted thereunder by the federal ~~home loan bank~~
~~13 11 board up to and including January 1, 1985~~ office of thrift
13 12 supervision. Investments authorized by this paragraph shall

13 13 not be counted in applying the limitations on investments in
13 14 service corporations in paragraph "i".

13 15 Sec. 28. Section 534.301, subsection 6, Code 2007, is
13 16 amended to read as follows:

13 17 6. OPERATING UNDER FEDERAL RULES AS TO DEPOSITS AND
13 18 INTEREST. A savings and loan association operating under this
13 19 chapter may operate in a manner similar to federally chartered
13 20 savings and loan associations regarding the use of the terms
13 21 "deposit" and "interest" and with such other powers as have
13 22 been authorized to federally chartered associations under the
13 23 Homeowners' Loan Act of 1933, 12 U.S.C. } ~~1464 1461 et seq.,~~
~~13 24 as amended~~, and as permitted under the rules and regulations
13 25 of the federal ~~home loan bank system~~ housing finance board and
13 26 the federal office of thrift supervision, to the extent that
13 27 similar rules and regulations have been adopted by the
13 28 superintendent and have been filed with the secretary of
13 29 state. This subsection does not diminish or restrict the
13 30 powers otherwise granted to such association by the laws of
13 31 Iowa.

13 32 The adoption and filing of such rules or regulations by the
13 33 superintendent shall not diminish or restrict the rights of
13 34 associations which do not make the above determination.

13 35 Sec. 29. Section 534.302, subsections 2 and 3, Code 2007,
14 1 are amended by striking the subsections.

14 2 Sec. 30. Section 534.401, Code 2007, is amended to read as

14 3 follows:

14 4 534.401 ~~DIVISION SUPERINTENDENT~~ OF SAVINGS AND LOAN
14 5 ASSOCIATIONS.

14 6 1. SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS. The
14 7 superintendent of savings and loan associations is the
14 8 superintendent of banking.

14 9 2. GENERAL SUPERVISORY POWER. The superintendent has
14 10 general supervision over all supervised organizations.

14 11 The superintendent may appoint examiners and assistants
14 12 necessary to properly execute the duties of the office.

~~14 13 Before entering upon their duties, the superintendent and
14 14 each examiner appointed by the superintendent shall take an
14 15 oath of office and shall each give bond to the state, signed
14 16 by a responsible surety company, in the penal sum of two
14 17 thousand dollars, conditioned upon faithful and impartial
14 18 discharge of the person's duty and on proper accounting for
14 19 all funds and other valuables which may come into the person's
14 20 hands. The bonds shall be approved by and filed with the
14 21 auditor of state, together with oaths of office of the
14 22 officers.~~

14 23 The superintendent may adopt further rules deemed necessary
14 24 to enable savings and loan associations to properly carry on
14 25 the activities authorized under this chapter.

14 26 3. DUTIES. The superintendent shall, at least once ~~each~~
~~14 27 year every two years~~, cause examination and audit to be made
14 28 of the affairs of every association subject to this chapter.
14 29 If an association is insured under ~~Title IV of the National~~
~~14 30 Housing Act, 12 U.S.C. ch. 13 the federal deposit insurance~~
~~14 31 corporation's deposit insurance fund~~, the superintendent may,
14 32 in lieu of examination and audit, accept an examination or
14 33 audit made by the federal office of thrift supervision. ~~An~~
~~14 34 association may, in lieu of examination and audit by the~~
~~14 35 superintendent, at the option of the superintendent be audited~~
~~15 1 by a certified public accountant, or by a public accountant~~
~~15 2 qualified and licensed to practice accountancy under the Code~~
~~15 3 of Iowa. At least two copies of each examination or audit~~
~~15 4 report, signed and verified by the accountant making it, shall~~
~~15 5 promptly be filed with the superintendent. When, in the~~
15 6 judgment of the superintendent, the condition of an
15 7 association renders it necessary or expedient to make an extra
15 8 examination or audit or to devote extraordinary attention to
15 9 its affairs, the superintendent shall cause such work to be
15 10 done. A copy of every examination or audit report shall be
15 11 furnished to the association examined, exclusive of
15 12 confidential comments made by the examiner, and a copy of
15 13 every report and comments and any other information pertaining
15 14 to an association may be furnished to the federal ~~home loan~~
~~15 15 bank housing finance board~~, federal home loan bank, and
15 16 federal office of thrift supervision. A copy of an
15 17 examination or audit report shall be presented to the board of
15 18 directors at its next regular or special meeting, their action
15 19 on it shall be recorded in the minutes, and two certified
15 20 copies of the minutes shall be transmitted to the
15 21 superintendent.

~~15 22 4. SUPERINTENDENT'S ANNUAL REPORT. The superintendent, as~~
~~15 23 of December 31 of each year, shall prepare and publish a~~
~~15 24 report showing in general terms the condition of all savings~~
~~15 25 and loan associations doing business in this state, and~~
~~15 26 containing other general information as in the~~
~~15 27 superintendent's judgment seems desirable. The reports shall~~
~~15 28 also list the names of all examiners and other assistants~~
~~15 29 appointed by the superintendent, together with their~~
~~15 30 respective salaries and expenses, shall list all receipts from~~
~~15 31 savings and loan associations, and shall show all expenditures~~
~~15 32 made on account of the supervision and examination of the~~
~~15 33 associations.~~

15 34 Sec. 31. Section 534.403, Code 2007, is amended to read as
15 35 follows:

16 1 534.403 EXAMINATIONS.

16 2 1. SUPERINTENDENT'S AUTHORITY == EXAMINATIONS. The
16 3 superintendent and examiners shall have full access to all
16 4 books and papers of an association which relate to its
16 5 business, and to books, records, and papers kept by an
16 6 officer, director, agent, or employee relating to, or upon
16 7 which any record of its business is kept, and may summon
16 8 witnesses and administer oaths or affirmations in the
16 9 examination of the directors, officers, agents, or employees
16 10 of an association, or any other person, in relation to its
16 11 affairs, transactions, and condition, and may require and
16 12 compel the production of records, books, papers, contracts, or
16 13 other documents by court order, if not voluntarily produced.

16 14 2. ~~EXPENSES, PER DIEM, VACATION, AND SICK LEAVE.~~ If the
16 15 examination is made under section 534.401, subsection 3, each
16 16 examiner shall file with the superintendent an itemized,
16 17 certified, and sworn voucher of the examiner's expense for the
16 18 time the examiner is actually engaged in an examination. On
16 19 the fifteenth and last days of each month each examiner shall
16 20 file in triplicate with the superintendent a certified
16 21 statement of the actual days engaged in examinations. The
16 22 salaries shall be included in a two-week payroll period. Upon
16 23 approval of the superintendent, the director of the department
16 24 of administrative services is authorized to issue warrants for
16 25 payment of the vouchers and salaries, including a prorated
16 26 amount for vacation and sick leave. Repayment to the state
16 27 shall be made as provided by section 534.408, subsection 4.
16 28 Savings and loan examiners shall be paid salaries at rates
16 29 commensurate with, and shall be reimbursed for meals and
16 30 lodging at the same rate and in the same manner as, that which
16 31 is received by federal examiners operating under the federal
16 32 home loan bank board.

16 33 3- 2. RECORD REQUIRED. A record of all examinations,
16 34 reports, and related information shall be kept in the
16 35 superintendent's office in accordance with the
17 1 superintendent's record retention policies, showing in detail
17 2 as to each association all matters connected with the conduct
17 3 of its business, its financial standing, and everything
17 4 touching its solvency, plan of business, and integrity.
17 5 The examinations, reports, and information shall be kept
17 6 confidential in the office of the superintendent, and are not
17 7 subject to publication or disclosure to others except as
17 8 provided in this chapter. However, the superintendent may
17 9 furnish any examination, report, or information to the ~~federal~~
17 10 office of thrift supervision United States department of the
17 11 treasury, federal deposit insurance corporation, or a
17 12 successor deposit insurance instrumentality, federal home loan
17 13 bank housing finance board, federal home loan bank, national
17 14 credit union administration, or financial institution
17 15 regulatory authorities of any state. Any evidence of
17 16 felonious acts on the part of the officers, directors, or
17 17 employees of an association may be referred by the
17 18 superintendent to proper authorities. Members of
17 19 associations, other than their officers and directors, are not
17 20 entitled to inspection of any such records or information, and
17 21 are not entitled to any information relative to the names of
17 22 the members of an association, or the amounts invested by
17 23 them, as disclosed in the superintendent's office, or in the
17 24 records of an association.

17 25 4- 3. REVOCATION OF AUTHORITY. If an association refuses
17 26 to submit to examination, the superintendent shall revoke its
17 27 certificate of authority.

17 28 Sec. 32. Section 534.404, subsection 1, paragraph a,
17 29 subparagraph (3), Code 2007, is amended to read as follows:

17 30 (3) A federal instrumentality or agency authorized to
17 31 inspect or examine the books and records of an insured
17 32 association ~~or of an uninsured member by the federal home loan~~
17 33 ~~bank.~~

17 34 Sec. 33. Section 534.404, subsection 3, Code 2007, is
17 35 amended to read as follows:

18 1 3. APPLICABILITY OF SECTION TO FEDERAL ASSOCIATIONS.
18 2 Insofar as the provisions of this section are not inconsistent
18 3 with federal law, such provisions shall apply to federal
18 4 savings and loan associations whose home offices are located
18 5 in this state, and to the members thereof except that the
18 6 communication provided for in subsection 2 shall be submitted
18 7 to the federal ~~home loan bank board, Washington, D.C., office~~
18 8 ~~of thrift supervision~~ in the case of a federal savings and
18 9 loan association and forwarded only upon ~~that board's the~~
18 10 federal office of thrift supervision's certificate and
18 11 direction.

18 12 Sec. 34. Section 534.405, unnumbered paragraph 6, Code
18 13 2007, is amended to read as follows:

18 14 If the association has the insurance protection provided by
18 15 ~~Title IV of the National Housing Act, 12 U.S.C. ch. 13 the~~
18 16 federal deposit insurance corporation's deposit insurance
18 17 fund, a signed and sealed copy of each order and certificate
18 18 mentioned in this section shall be promptly sent by the
18 19 superintendent by registered mail to the federal office of
18 20 thrift supervision, Washington, D.C. and to the federal
18 21 deposit insurance corporation. ~~If the association is insured~~
18 22 ~~by the savings association insurance fund of the federal~~
18 23 ~~deposit insurance corporation, the resolution trust~~
18 24 ~~corporation shall be named receiver if the superintendent has~~

~~18 25 determined the need for a receivership. The superintendent
18 26 may name the federal deposit insurance corporation as receiver
18 27 if the superintendent has determined the need for a
18 28 receivership in accordance with the provisions of this
18 29 section.~~

18 30 Sec. 35. Section 534.406, Code 2007, is amended to read as
18 31 follows:

18 32 534.406 RECEIVERSHIP.

18 33 If a ~~building and loan or state~~ savings and loan
18 34 association is conducting its business illegally, or in
18 35 violation of its articles of incorporation or bylaws, or is
19 1 practicing deception upon its members or the public, or is
19 2 pursuing a plan of business that is injurious to the interest
19 3 of its members, or if its affairs are in an unsafe condition,
19 4 the superintendent shall notify the directors of the
19 5 association, and, if they fail to put its affairs upon a safe
19 6 basis, the superintendent shall ~~advise the attorney general,
19 7 who shall take the necessary steps to wind up its affairs in
19 8 the manner provided by law apply to the district court for the
19 9 county in which the savings and loan association is located to
19 10 be appointed as receiver for the savings and loan association.
19 11 The district court shall appoint the superintendent as
19 12 receiver unless the superintendent has tendered the
19 13 appointment to the federal deposit insurance corporation, in
19 14 which case the district court shall appoint the federal
19 15 deposit insurance corporation as receiver. In the proceedings
19 16 a receiver may be appointed by the court and the The
19 17 proceedings shall be the exclusive liquidation or insolvency
19 18 proceeding and a receiver shall not be appointed in any other
19 19 proceedings.~~

19 20 Sec. 36. Section 534.408, Code 2007, is amended by
19 21 striking the section and inserting in lieu thereof the
19 22 following:

19 23 534.408 SUPERVISORY FEES.

19 24 1. A state association subject to examination,
19 25 supervision, and regulation by the superintendent shall pay to
19 26 the superintendent fees, established by the superintendent,
19 27 based on the costs and expenses incurred in the discharge of
19 28 the duties imposed upon the superintendent by this chapter.
19 29 The fees shall include, but are not limited to, costs and
19 30 expenses for salaries, expenses and travel for employees,
19 31 office facilities, supplies, and equipment.

19 32 2. Failure to pay the amount of the fees to the
19 33 superintendent within ten days after the date of billing shall
19 34 subject the state association or any affiliate of a state
19 35 association to an additional charge equal to five percent of
20 1 the amount of the fees for each day the payment is delinquent.

20 2 Sec. 37. Section 534.507, Code 2007, is amended to read as
20 3 follows:

20 4 534.507 NAME.

20 5 The name of an association shall contain the words "savings
20 6 bank" or the words "savings and loan association". An
20 7 association shall not advertise or hold itself out to the
20 8 public as a commercial bank ~~however, a corporate name, logo,
20 9 or signage existing on January 1, 1989, depicting the name of
20 10 the association may be used for as long as the association
20 11 chooses to continue to use the name, logo, or signage existing
20 12 on that date. A federal savings association shall not use the
20 13 word "state" in its name, trademark, or logo.~~

20 14 Sec. 38. Section 534.509, subsection 8, paragraph a, Code
20 15 2007, is amended to read as follows:

20 16 a. The superintendent has received a copy of the charter
20 17 issued to a converting association by the federal ~~home loan
20 18 bank board office of thrift supervision or a certificate
20 19 showing the organization of such association as a federal
20 20 savings and loan association, certified by the secretary or
20 21 assistant secretary of the federal home loan bank board
20 22 federal office of thrift supervision.~~

20 23 Sec. 39. Section 534.511, subsection 5, paragraph d, Code
20 24 2007, is amended by striking the paragraph.

20 25 Sec. 40. Section 534.511, subsection 8, Code 2007, is
20 26 amended to read as follows:

20 27 8. CERTIFICATION. The superintendent shall prepare a
20 28 certificate of merger upon the occurrence of all of the events
20 29 stated in subsections 3, 4, 5, 6, and 7. This certificate
20 30 shall include the name of the surviving association, federal
20 31 association, or bank and the effective date of the merger.
20 32 The original certificate shall be filed with the secretary of
20 33 state. The superintendent shall provide a certified copy of
20 34 the certificate to any person upon payment of a ~~five dollar
20 35 fee established by the superintendent. A certified copy of~~

21 1 this certificate is sufficient proof of the merger for
21 2 purposes of establishing liability for debts or the ownership
21 3 of assets as provided in section 534.512, subsections 1 and 2.
21 4 An association involved in a merger may transfer assets or
21 5 receive assets under the plan of merger only after the
21 6 certificate of merger has been issued by the superintendent.
21 7 Sec. 41. Section 534.513, subsection 1, Code 2007, is
21 8 amended to read as follows:

21 9 1. VOLUNTARY LIQUIDATION. ~~Building and loan or savings~~
~~21 10 and loan State~~ associations, by a vote of three-fourths of the
21 11 members of such association represented in person or by proxy,
21 12 may go into voluntary liquidation upon such plan as shall be
21 13 determined upon by the members at their meeting.

21 14 Sec. 42. Section 534.513, subsection 4, Code 2007, is
21 15 amended to read as follows:

21 16 4. TRANSFER OF MORTGAGES == MATURITY. In case any such
21 17 association resolves to go into voluntary liquidation, it
21 18 shall have power after crediting the mortgages given by the
21 19 borrowing member with the full book value of the stock, to
21 20 sell and assign such mortgages to a similar ~~building and loan~~
21 21 association, or to any other parties who will hold the same
21 22 upon the terms under which such mortgage was given to the
21 23 association. In that event the said mortgage shall be held to
21 24 become due, if no other time can be agreed upon between the
21 25 mortgagor and the association, within three years after the
21 26 assignment thereof.

21 27 Sec. 43. Section 534.606, Code 2007, is amended to read as
21 28 follows:

21 29 534.606 CRIMINAL OFFENSES.

21 30 If any officer, director, or agent of any ~~building and loan~~
~~21 31 or savings and loan~~ association shall knowingly and willfully
21 32 swear falsely to any statement in regard to any matter in this
21 33 chapter required to be made under oath, the person shall be
21 34 guilty of perjury. If any director of any such association
21 35 shall vote to declare a dividend greater than has been earned;
22 1 or if any officer or director or any agent or employee of any
22 2 such association shall issue, utter, or offer to utter, any
22 3 warrant, check, order, or promise to pay of such association,
22 4 or shall sign, transfer, cancel, or surrender any note, bond,
22 5 draft, mortgage, or other evidence of indebtedness belonging
22 6 to such association, or shall demand, collect, or receive any
22 7 money from any member or other person in the name of such
22 8 association without being authorized to do so by the board of
22 9 directors in pursuance of its lawful power, the person shall
22 10 be guilty of a fraudulent practice; or if any such officer,
22 11 director, agent, or employee shall embezzle or convert to the
22 12 person's own use, or shall use or pledge for the person's own
22 13 benefit or purpose, any moneys, securities, credits, or other
22 14 property belonging to the association, the person shall be
22 15 guilty of theft; or if the person shall knowingly do or
22 16 attempt to do business for such association that has not
22 17 procured and does not hold the certificate of authority
22 18 therefor as in this chapter provided, the person shall be
22 19 guilty of a serious misdemeanor; or if the person shall
22 20 knowingly make or cause to be made any false entries in the
22 21 books of the association, or shall, with the intent to deceive
22 22 any person making an examination in this chapter required to
22 23 be made, exhibit to the person making the examination any
22 24 false entry, paper, or statement, the person shall be guilty
22 25 of a fraudulent practice; or if the person shall knowingly do
22 26 or solicit business for any ~~building and loan or savings and~~
22 27 loan association which has not procured the required
22 28 certificate therefor, the person shall be guilty of a serious
22 29 misdemeanor.

22 30 Sec. 44. Section 546.2, subsection 3, paragraph c, Code
22 31 2007, is amended by striking the paragraph.

22 32 Sec. 45. Section 546.3, subsection 1, Code 2007, is
22 33 amended to read as follows:

22 34 1. The banking division shall regulate and supervise banks
22 35 under chapter 524, debt management licensees under chapter
23 1 533A, money services under chapter 533C, delayed deposit
23 2 services under chapter 533D, savings and loan associations
~~23 3 under chapter 534~~, mortgage bankers and brokers under chapter
23 4 535B, regulated loan companies under chapter 536, and
23 5 industrial loan companies under chapter 536A, and shall
23 6 perform other duties assigned to the division by law. The
23 7 division is headed by the superintendent of banking who is
23 8 appointed pursuant to section 524.201. The state banking
23 9 council shall render advice within the division when requested
23 10 by the superintendent.

23 11 Sec. 46. Section 534.109, Code 2007, is repealed.

23 12 Sec. 47. Section 534.113, Code 2007, is repealed.
23 13 Sec. 48. Section 534.515, Code 2007, is repealed.
23 14 Sec. 49. Section 534.519, Code 2007, is repealed.
23 15 Sec. 50. Section 546.5, Code 2007, is repealed.

23 16 EXPLANATION

23 17 This bill relates to the operation of the savings and loan
23 18 division of the department of commerce.

23 19 The bill adds a definition of "state association" or "state
23 20 savings and loan association" to Code chapter 524, which
23 21 governs state-chartered banks. The definition states that a
23 22 "state association" or "state savings and loan association"
23 23 means a corporation holding a certificate of authority to
23 24 operate under Code chapter 534 as either a mutual association
23 25 or a stock association, as those terms are defined in that
23 26 Code chapter. The bill extends the basic provisions of Code
23 27 chapter 524 to include state savings and loan associations in
23 28 order to integrate the savings and loan division into the
23 29 division of banking, incorporating that term into a number of
23 30 Code sections contained within the chapter and making related
23 31 changes included but not limited to conversion of one form of
23 32 financial institution into another one.

23 33 The bill provides a new exception to a general prohibition
23 34 against the issuance of a subpoena of banking division
23 35 personnel or records relating to the supervision and
24 1 regulation of a state bank or person by the superintendent.
24 2 The bill specifies that the prohibition shall not apply to an
24 3 action brought to recover moneys for a loss in connection with
24 4 an indemnity bond which was a result of embezzlement,
24 5 misappropriation, or misuse of funds by a director, officer,
24 6 or employee of an entity regulated by the superintendent.

24 7 The bill also makes changes to Code chapter 534, which
24 8 specifically governs savings and loan associations. The bill
24 9 deletes references to the "division" of savings and loan
24 10 associations, modifies or updates references to the federal
24 11 Home Owners' Loan Act, and changes references to the federal
24 12 home loan bank and federal home loan bank board to the federal
24 13 office of thrift supervision or federal housing finance board
24 14 in several Code sections contained within the chapter. The
24 15 bill modifies reporting requirements applicable to the
24 16 superintendent of savings and loan associations consistent
24 17 with incorporation of the division within the division of
24 18 banking, and provisions relating to compensation, expenses,
24 19 vacation, and sick leave policies applicable to examiners
24 20 appointed by the superintendent. The bill provides that
24 21 records of examinations, reports, and related information
24 22 required to be kept in the superintendent's office shall be
24 23 retained in accordance with record retention policies adopted
24 24 by the superintendent, and updates references to federal
24 25 entities to which the superintendent may submit such records.

24 26 The bill adds references to the federal deposit insurance
24 27 corporation in connection with insurance protection applicable
24 28 to savings and loan associations in conservatorship or
24 29 receivership, and provides that in lieu of the attorney
24 30 general winding up the affairs of an association in
24 31 receivership, the superintendent may apply to the relevant
24 32 district court to be appointed receiver, or for appointment of
24 33 the federal deposit insurance corporation as receiver where
24 34 appropriate.

24 35 The bill deletes provisions which previously prescribed
25 1 dollar amounts payable by savings and loan associations as
25 2 fees for specified services or functions provided by the
25 3 superintendent, instead providing that a state association
25 4 subject to examination, supervision, and regulation by the
25 5 superintendent shall pay to the superintendent fees,
25 6 established by the superintendent, based on the costs and
25 7 expenses incurred in the discharge of the superintendent's
25 8 duties. The bill provides that failure to pay the amount of
25 9 the fees to the superintendent within 10 days after the date
25 10 of billing shall subject the state association or any
25 11 affiliate of a state association to an additional charge equal
25 12 to 5 percent of the amount of the fees for each day the
25 13 payment is delinquent. The bill also deletes, with reference
25 14 to the name of a savings and loan association, a previous
25 15 provision stating that a corporate name, logo, or signage
25 16 existing on January 1, 1989, which depicted the name of the
25 17 association may be used for as long as the association chooses
25 18 to continue to use the name, logo, or signage existing on that
25 19 date. The bill adds that a federal savings association may
25 20 not use the word "state" in its name, trademark, or logo.

25 21 The bill deletes or repeals references to "building and
25 22 loans" in several Code sections, and adds savings and loan

25 23 associations to the list of organizations subject to
25 24 regulation and supervision by the banking division of the
25 25 department of commerce.
25 26 The bill additionally deletes, with reference to the merger
25 27 of a savings and loan association with one or more other state
25 28 associations, federal associations, association holding
25 29 companies, bank holding companies, or banks, a provision
25 30 authorizing the superintendent to reject a plan of merger if
25 31 the plan does not provide for the closing or sale of all of
25 32 the offices which must be discontinued in order for the
25 33 resulting organization to have only those office locations
25 34 which a resulting bank would be authorized under Code chapter
25 35 524 to apply for and have approved on the effective date of
26 1 the merger if it had no bank office locations in operation on
26 2 that date. The bill repeals several Code sections, including
26 3 Code section 534.519 relating to the organization of a savings
26 4 and loan association as a mutual holding company, Code section
26 5 534.109 relating to applicability of the chapter to
26 6 corporations organized under prior law, and Code section
26 7 534.113 referencing the 1990 United States Code and
26 8 regulations.
26 9 LSB 1300DP 82
26 10 rn:rj/es/88.1